

**Medway Planning & Economic Development Board Meeting
Tuesday, February 23, 2009
Medway Senior Center, 76 Oakland Street**

PRESENT: Bob Tucker, Karyl Spiller-Walsh, Tom Gay, John Williams, Andy Rodenhiser, Chan Rogers

ABSENT:

ALSO PRESENT: Susy Affleck-Childs
Gino Carlucci
Barbara Saint André – Town Counsel

Chairman Rodenhiser called the meeting to order at 6:42 pm

Discussion on street acceptance issues

Andy Rodenhiser – Board of Selectmen is generally opposed to the idea of using town's resources for takings, etc.

Karyl Spiller-Walsh – Are the legal fees part of the taking process?

Barbara Saint André – The Board of Selectmen is looking for specific recommendations. On all of these your board was successful in obtaining funds from the developers toward the expense for legal review of street acceptances.

Andy Rodenhiser – But it is proving problematic. Birch Hill example.

Barbara Saint Andre – There was a March 1 deadline for Birch Hill. I need to check on this. She (Ellen Rosenfeld) was working on the deeds. She said she was going to meet with the abutters.

Chan Rogers – Where we have had trouble is where we have had more than a 20 year hiatus. That makes for a lot of problems, especially the condition of the road after 20 years.

Barbara Saint Andre – With **Ishmael Coffee Estates**, the problem here are the easements. They actually did keep the road title so they can give us the roads. But they did not reserve the easements for drainage, etc. The easements do show on the plans. They thought that was adequate. My goal is for the town to have good title. I am more concerned about the easements on private lots. That is when people get excited. The developer's attorney says when they kept the title to the roads it implied retention of the easements because they go with the streets. There is some law that sort of backs that up. There are some cases where there are implied easements. But I don't want the Town to be in a position to have to go to court re: easements. My advice is to go to the Ishmael Coffee Estates folks. We should just insist that they go out and get the easements. Some of these are pretty substantial.

Barbara Saint André – If you want to accept roads, you want to have all the drainage structures that go along with them. The water has to go somewhere, if we don't have easement to drain water on somebody's property, then we really don't have the full system. The Board of Selectmen doesn't want to go do eminent domain takings. The developer would like us to take the roads without pinning down the easements.

Andy Rodenhiser – The plans show the easements. The Board of Selectmen has asked us to plan meetings with residents to explain what the problems are. They want us to facilitate the completion of some of the subdivisions that are problematic.

Barbara Saint André – I will relay to Bill Sack that both the Board of Selectmen and the Planning Board have requested that they do the easements for all these drainage and other easements as shown on the plan.

Andy Rodenhiser – I suspect we will get a request for a meeting at which time Paul Yorkis will come in and ask for that to be reconsidered. Board of Selectmen wants this clarity

Barbara Saint Andre – With **The Meadows**, it is the opposite. They did reserve the easements, but did not reserve the fee in the roads. The easements are okay. So again, my feeling is to ask the abutters to deed over the roadway. The developer has said he will not do anything more.

Andy Rodenhiser – What we can do is to facilitate the meeting? Explain to the residents what is required; explain to them what is going on.

Barbara Saint André – We have asked them. They don't want to do anything. They are OK with just leaving it as is.

Andy Rodenhiser – We could take it by eminent domain, and charge the fees back to the bond. We could recommend that to the Board of Selectmen.

Karyl Spiller-Walsh – If in every subdivision the applicant is expected to pay all the legal costs to secure all the easements, do we also have our attorney vet all their finds? And do we pay for it?

Andy Rodenhiser – As we go forward, we provide sample deeds.

Barbara Saint André – If they reserve the roads and the easements that is all they have to do. It is the older ones that are a problem. This is not unusual to Medway.

Karyl Spiller-Walsh – I can imagine there are very angry applicants.

Andy Rodenhiser – The base of knowledge has improved dramatically. They will not get accepted.

John Williams – There is some money in the Construction Observation account to facilitate this? Give the developer the opportunity to come to the table. These are the steps we are going to take.

Andy Rodenhiser – If we go to the Board of Selectmen with a recommendation. .

Karyl Spiller-Walsh - Might the neighborhood want to have their roads approved and so there would be an incentive to pay for the portion of the legal expenses?

Bob Tucker – I would suggest Susy put together a matrix.

Andy Rodenhiser – We need to have Barbara Saint Andre look at our various bond agreements.

Approval of Meeting Minutes

A motion was made by Tom Gay, seconded by Karyl Spiller-Walsh to approve the minutes of the 1-20-2009 and the 1-27-2009 meetings. Approved.

Committee Reports

Bob Tucker – Susy went to Concom for me the other night, following up on the question whether they want the open space at The Meadows and at Williamsburg.

Susy Affleck-Childs – ConCom is agreeable to receiving the open space at both sites.

Susy Affleck-Childs – There is an Open Space Committee public hearing on March 3rd.

Andy Rodenhiser – There is an EDC organizational briefing on March 3rd. Also, I am meeting with Suzanne Kennedy that same afternoon.

Bob Tucker – The CPC meets Monday, March 2nd. They are continuing discussion on 2B Oak Street. The Historical Society has expressed interest in the property. Also the Boys and Girls clubs. We need to hear from groups that are interested. We are soliciting proposals. The lot does have historic significance within the town. I am not convinced the structures carry the same merit.

ANR plan – Hidden Acres Realty Trust

Gino Carlucci – Of my comments, the critical item they did put on the Planning Board endorsement does not indicate compliance. They added zoning dimensional requirements but not the other items I had specified per the regs.

Bob Tucker – If it doesn't have everything, we shouldn't approve. They know the rules.

A motion was made by Chan Rogers, seconded by Bob Tucker to not endorse the ANR plan for the Pine Street/RR area submitted by Hidden Acres Realty Trust prepared by Dunn McKenzie because it was not complete. The motion was approved.

Williamsburg Condominium Public Hearing Continuation

Paul Yorkis, representing Greg Whelan

At 7:25 pm Chan Rogers steps out for a minute, and then returns at 7:28 pm.

NOTE – Attach draft decision dated February 19, 2009

Paul Yorkis – First, briefly, I have a revised plan. The only revision is showing the change in the locations of the affordable housing units to be 9, 11 and 17; that is the only change.

I have some comments on the draft decision.

1. Add Affordable Housing Committee to the list of committees giving testimony
2. Question on conservation restriction – and requiring occupancy permit – Gino Carlucci suggestion - and submitted to the

Tony Biocchi and Christine Price – The Conservation Commission did vote to accept the open space parcels.

Paul Yorkis – On page 12 – f. – I want it to be clear that the condo association will not have to install those trails.

6 f 2 – “sold” not “told”

6 h – they also have same rights and “privileges”

8 a. 2 – I would rather we leave the walls alone and relocate any material to the entrance and a new wall.

Andy Rodenhiser – This language gives a lot of flexibility/

Paul Yorkis – Re: 9. Sidewalk Construction – I know the board has a goal and policy and procedures relative to sidewalks and mitigation, and I am, on behalf of the applicant, I am very concerned that this is an open ended number. I did speak with Dave D’Amico regarding this. The information he provided to Susy Affleck-Childs was for Village Street which is for granite curbs and concrete sidewalks.

For West Street it would be bread loaf berm and asphalt decking.

A rough calculation of each of the affordable units at 1500 sq. ft with 3 bedrooms, and portioning the infrastructure and the permitting costs, etc., you are looking at a \$270,000 to 290,000 COST. That is a lot of money that is not being fully recaptured through the sale (of those affordable units). And the mitigation here really is the construction of 3 affordable units. From my perspective those are more important than 250 feet of sidewalks.

With a conventional subdivision, it is absolutely a requirement that sidewalks are to be provided along the frontage of existing ways, but it is not specific in the OSRD.

John Williams – I thought at the last meeting, we did go through a series of decisions where most of the board members felt it was important.

Andy Rodenhiser – There were many gyrations. Even Greg Whelan agreed.

Paul Yorkis – After I spoke more with Greg Whelan, he now understands. With the costs, the vagueness in the town's policies relative to where sidewalks go and questions about who pulls permits, there are just too many loose ends. The ConCom in this case, could deny the construction of the sidewalk. Whose responsibility would be to appeal that? I think it is truly unfair and unreasonable. All the implications of this are not well thought out.

Andy Rodenhiser – I think in certain instances, the rules and regs are there to provide maximum flexibility. In the instance where it is unique here, the construction of sidewalks is fraught with problems. The option exists to construct elsewhere or to pay into the fund.

Paul Yorkis – Or not to construct at all because there are other mitigation measures – There is a lot of money being poured into mitigation because of the affordable units.

Andy Rodenhiser – What do you mean affordable housing is mitigation? That is part of the special bylaw; it is not mitigation.

Paul Yorkis – It is when you look at the broadest possible context.

Andy Rodenhiser – It is an underlying responsibility when you do an OSRD.

Paul Yorkis – If you don't want developers to do OSRDs then keep increasing the costs to build them. And the town wants more affordable housing and has been negligible in using any CPA funds. The private party needs to do it in such a way that they still make money.

Bob Tucker – The CPC has been taking steps to put some money into affordable housing. CPC doesn't come up with ideas on their own.

Paul Yorkis – Organic farming has been a higher priority than affordable housing. Money speaks loudly. It hasn't been spent. The town hasn't done anything.

Bob Tucker – Steps are being taken.

Andy Rodenhiser – Do you have any evidence to present that this is a financial burden or a hardship?

Paul Yorkis – We know what our projected costs are. Those are gross projections because we don't have a definitive plan. The town has no policy, no specific amount relative to this fund for sidewalks. If you take granite curbing and concrete decking that is what he (Dave D'Amico) would want on Village Street. In other areas it varies. So what is the number?

Tom Gay – Why don't we determine this based on what it would cost to do this on West Street?

Paul Yorkis – I am not interested in constructing sidewalks off site. We are willing to do a payment in lieu of.

Karyl Spiller-Walsh – When we established that fund we did not have the affordable housing requirement, so it does change the profile. So being in this delicate economic scenario, I can see why. I have sympathy. I am not saying it is an either/or.

Andy Rodenhiser – A compromise may lie in what Tom Gay has suggested as a dollar figure as opposed to the traditional method of figuring out the footage and then applying the state's standard of cost. He (the applicant) sounds more amendable to making a payment then constructing sidewalks.

Paul Yorkis – The applicant has tried to work with the board as cooperatively as we can, knowing there are different issues. In the ideal world, from the applicant's perspective, there would be no sidewalks. If the board's position is that there is going to be some dollar contribution, it needs to be a specific amount, based on a specific understanding. This applicant is not going to get involved in doing work off site.

Andy Rodenhiser – Bob, does RS Means have a table we could use as a reference for this type of construction cost? That would be a private

Bob Tucker – Means, or one, or many others.

Andy Rodenhiser – Is there something we could use as an alternative?

Bob Tucker – I can look into that. I did have to price some sidewalk work.

Andy Rodenhiser – We need to have a referenceable standard, taking whatever the footage is that is required, apply it to a private contractor's price, and figure out that cost so it is understood and clear.

John Williams – I guess what I am hearing, it is difficult and a pain in the neck to build the sidewalks. This is a special permit. We have the right. I am uncomfortable to shifting this off.

Andy Rodenhiser – The rules and regs allow for payment in lieu of as an option.

Tom Gay – I said the payment should be based on the type of sidewalk that would be constructed on West Street.

Bob Tucker – I can get that number. But my concern is that, since I have been on the board, we have used the state dollar value. But any of that work that is done by the Town has to be according to prevailing wage. So now you are saying you are not going to even take in enough to cover prevailing wage.

Andy Rodenhiser – We are in an economic downturn and in somewhat of a difficult situation.

Bob Tucker – I understand the economic downturn. The whole intent is to provide options – build on site, payment in lieu of, or construct elsewhere in town. A contractor can build 100 feet of sidewalk a whole lot cheaper than the Town can.

Chan Rogers – We have also substantially reduced the amount of road that has to be built.

Paul Yorkis – If the Town was to supply all the permits, sure; but that isn't going to happen. There are wetlands on Village Street. There are title issues.

Chan Rogers – We wouldn't ask you to build sidewalks if it wasn't clear.

Paul Yorkis – When I spoke with Dave D'Amico, he said there would need to be a street opening permit and a bond. Who posts the bond? There are so many issues associated with this. It makes no sense.

Bob Tucker – It takes prevailing wages for the town to build anywhere.

Bob Tucker – The dollar value should be based on the standard for building in that particular site.

Paul Yorkis – Out of this discussion my hope is the next time this happens there will be some standards; there will be some policies and procedures.

Karyl Spiller-Walsh – He is right about the financial burden of the affordable units.

Andy Rodenhiser – Are we okay in concept? Just to clarify. We are talking about the square footage at that site.

Tom Gay – So it is asphalt and bread loaf berm times X number of feet – state dollar value – per mass highway standards.

Karyl Spiller-Walsh – not prevailing wage?

Tom Gay – I think we have to go with what the standard is. I think you have to use how they price that, and how they go after the bidding. There are other ways to shorten the cost. 3 out of 18 units are affordable. We could apply some multiplier discount based on the affordable units.

Andy Rodenhiser- So if there is 100 feet, and there are 3 affordable units, then what?

Tom Gay – 250' x \$10, then credit it back somehow.

John Williams – We have to discount on footage – 10 units/100 feet, 3 are affordable, so reduce the length by 30 feet.

Tom Gay – I would do it based on the number of units.

Paul Yorkis – I don't think your frontage length is correct.

Susy Affleck-Childs – Can you provide us with the alternative frontage length?

Paul Yorkis – In reality there is going to be sidewalk. We can give you a net figure.

NOTE – Susy Affleck-Childs and Paul Yorkis stepped away to review the plans and calculate the frontage length on West Street (minus the roads).

Susy Affleck-Childs – It is 225 feet of frontage.

John Williams – Are we going to discount the same sidewalk for affordable units in a conventional subdivision? If we look to the bigger picture, if it is a standard subdivision, there are provisions for affordable housing. In this OSRD we are lessening the requirement. Are we prepared to do the same formula adjustment? Allowing this provision here allows it elsewhere.

Tom Gay - I am.

Karyl Spiller-Walsh – Yes.

Tom Gay – The thing we might be missing is that this is due to a condition where the sidewalk cannot be built.

Paul Yorkis – We have requested a waiver from this requirement. We are asking you to grant that waiver. I also understand you are requiring dollars into some account that would be part of the decision.

Andy Rodenhiser – We are saying you do have to make a contribution

Paul Yorkis – If we were to construct, it would still require a permit from the conservation commission. I know what can happen. I am in a lawsuit with them

Gino Carlucci – Discount the amount based on the affordable units.

Tom Gay – Instead of 100% of the sidewalk cost, some reduction.

Andy Rodenhiser – Are you OK with this concept? All agreed.

Paul Yorkis – Re: 9. a – funds to be paid when?? I suggest prior to the 7th market rate unit occupancy permit.

Andy Rodenhiser – Or 3 years, whichever comes first, from the issuance of the first building permit.

Paul Yorkis – Re: 14 and the ANR. There doesn't need to be an ANR plan. The plan that gets approved by the Planning Board will divide the land. I am sensitive to the cost of recording.

Susy Affleck-Childs – I didn't think a special permit created parcels.

Tony Biocchi – As long as you have an endorsed plan, that makes it recordable, and whatever you say in the special permit goes.

Susy Affleck-Childs – I want to check with town counsel on this.

Paul Yorkis – Re: 17 a. I request the time restrictions should be based on external construction only.

RE: Open Space Parcels – A and B

Tony Biocchi – We (ConCom) want to truly protect the vernal pool in A. If offered, we would take it.

Paul Yorkis – Parcel A is not available to the Conservation Commission.

Tony Biocchi – The pathway done at the park to the high school was done in crusher rock. That has been most effective. It stays in its place. Bluestone runs off. If something is going to be put there that would be good.

Paul Yorkis – In the site walk we did with the OSC, and at the other meetings, we tried to advocate for not having a permanent path, because we wanted the upland meadow to be able to restore itself. It is something that could be done. It is not a big deal.

Tony Biocchi – The basis for the recommendation is that we want the meadow area to stay the way it is. But I believe Open Space would tell you once a field stays the way it is, the invasives tend to come out and overtake. You need to do either one of two things. Either you want a permanent trail structure and/or you have some ways to cut regularly.

Paul Yorkis – It is really a beautiful area. There is habitat value for the species present there – it has to be maintained as a meadow. You end up losing the specifics. At some point in time, going back to the trail issue, there is nothing to prevent, at a future date, the actual building of a trail through the wetlands. It has to be done with permits. We don't want to be responsible for that. The habitat would lend itself nicely to that.

Bob Tucker – Give it either/or . . . Give them an option to put in the trail.

Minimum of cutting at least once annually.

Andy Rodenhiser – Greg is pursuing this permit because he believes this is a better alternative than the 40B; and he is giving up that right. We will put this in the findings. We will list it as a condition of this permit that he voluntarily agreed to do so.

Tony Biocchi – Make sure to reference the specific decision 40 B.

Jim Wickis – As an abutter I am very impressed and pleased with the whole process and the way it is unfolding. I think this OSRD is working out nicely for the abutters. I appreciate it.

NOTE - Mullins Rule certifications were received from Tom Gay and John Williams for absent meetings.

A motion was made by Chan Rogers to close the public hearing, seconded by Karyl Spiller-Walsh. The motion passed unanimously.

Chan Rogers – Are we going to approve this thing at a subsequent meeting?

NOTE – It was agreed to vote on this at the March 10th meeting.

Other Business – Zoning Articles

Eric Alexander, Affordable Housing Committee – I am here re: the proposed **infill housing** bylaw. We have incorporated most of the changes you have suggested. Attach revised draft. We eliminated the provision re: ANRs so we are just looking at previously existing lots in AR2. We changed the language re: the DRC's recommendation. We changed the effective date of the existing lots of the adoption. We made it back to Jan. 1, 2009. We added a lot shape factor for compatibility.

Fran Hutton Lee and Susy Affleck-Childs have helped us pare down a spreadsheet of possible lots. Fran Hutton Lee has highlighted the lots in ARII that might qualify which are at least 6000 sq. ft (and no larger than 22,500 sq. ft) and have frontage on a public way. So you can see we are not talking about hundreds of lots. Some may not be buildable for other reasons.

John Williams – Is there a possibility that larger lots could be subdivided?

Eric Alexander – No, we removed the ANR option. You cannot create nonconformity.

A motion was made by Bob Tucker, seconded by Chan Rogers to go ahead with this proposal for the May 2009 Annual Town Meeting. The motion was approved unanimously.

Gino Carlucci – Re the adult uses bylaw, there are 2 issues. We had included a requirement that it be 500 feet away in any direction, and that would knock out the 4 lots that are sort of close to Coffee Street. Barbara Saint Andre pointed out this is a by right use. We made it another options for different buffers with a solid fence. That puts those lots back in play.

Second – Susy Affleck-Childs raised an issue today. I had suggested putting this in subsection M 1, which is the list of districts but it includes the specific criteria. I would suggest we split the proposed text between paragraphs one and two.

A motion was made by Bob Tucker, seconded by Chan Rogers to go ahead with this revised text for the adult uses in Industrial I zone. The motion was approved unanimously.

Other Business

Chan Rogers – The new Charter all but cuts the feet out from under the Sewer/Water Commission.

A motion was made by Tom Gay, seconded by Karyl Spiller-Walsh to adjourn the meeting. The motion was approved.

The meeting adjourned at 9:20 pm.

Respectfully submitted,

Susan E. Affleck-Childs
Planning Board Assistant

*Andy Rodenhiser, Chairman
Robert K. Tucker, Vice-Chairman
Cranston (Chan) Rogers, P.E, Clerk
Karyl Spiller-Walsh
Thomas A. Gay
John W. Williams, Associate Member*

Revised DRAFT – February 19, 2009

**PLANNING & ECONOMIC DEVELOPMENT BOARD DECISION
Williamsburg Condominium
Open Space Residential Development (OSRD) Special Permit –
Open Space Residential Development (OSRD) Concept Plan –
Affordable Housing Special Permit -**

Name/Address of Applicant: Broad Acres Management Trust
Greg Whelan, Trustee
1352 West Main Street
Millis, MA 02054

Name/Address of Property Owner: Broad Acres Management Trust
Greg Whelan, Trustee
1352 West Main Street
Millis, MA 02054

Engineer: Faist Engineering, Inc.
600 Charlton Street
Southbridge, MA 01550

Land Surveyor: O'Driscoll Land Surveying, Co.

46 Cottage Street
Medway, MA 02053

Architect: Michael Blanchette
39 Temple Street
Medway, MA 02053

Landscape Architect: TO DESIGN, LLC
114 West Main Street, Suite 201
New Britain, CT.

Plan Dated: August 20, 2008, last revised January 28, 2009

Location: 66A, 70, 70R and 72 West Street

Assessors' Reference Map 2, Parcels 7B, 6-1-B, 6-1-2, and 6-1-3.

Zoning District: AR-II

Purpose: To construct an Open Space Residential Development (OSRD) with eighteen (18) dwelling units (*including 3 affordable dwelling units*) on a 13.86 acre site and permanently preserve 8.7 acres as open space, pursuant to SECTION V. Sub-Sections T. and X. of the Medway Zoning Bylaw.

PROJECT DESCRIPTION

The subject property, a 13.86 acre site, is located at 66A, 70, 70R and 72 West Street in the Agricultural Residential II zoning district. The site is comprised of four parcels on the north side of West Street, west of Fisher Street, adjacent to the Medway Veterinary Clinic and across from Holbrook Street. The property is owned by Broad Acres Management Trust of Millis, MA. The site includes wetlands, a tributary of Hopping Brook, upland meadows, wet meadows, a pine grove, a vernal pool and several stone walls.

The applicant proposes to develop a condominium community to be known as Williamsburg Condominiums consisting of nine duplex buildings for a total of eighteen residential dwelling units including three affordable dwelling units. Each dwelling unit has room for two to four off-street parking spaces. The three affordable dwelling units will be considered to be low or moderate income units which shall comply with the requirements for inclusion on the Subsidized Housing Inventory prepared by the Department of Housing and Community Development pursuant to M.G.L., chapter 40B, section 20-23 (the “affordable housing units”).

Site improvements include construction of an approximately 1,134 foot long one-way sixteen foot wide private road/driveway, approximately 1,200 linear feet of interior sidewalks/pathways, connection to Town sewer and water services, associated stormwater drainage facilities and 8.7 acres of permanently preserved open space to be accessible to the public with three designated visitor parking spaces. An additional four guest on-street parking spaces are also provided. Site access and egress will be from West Street.

The land is to be divided into three parcels as follows:

- Open Space Parcel A - .97 acres including a vernal pool (*to be owned by the Williamsburg Condominiums Trust*)
- Open Space Parcel B – 7.68 acres
- Developable Area Parcel - 5.21 acres includes all 18 dwelling units, roadway, sidewalks and stormwater facilities (*to be owned by the Williamsburg Condominiums Trust*)

PROCEDURAL BACKGROUND

In accordance with the provisions of Section V., Sub-Section T. and X. of the Medway Zoning Bylaw and Section 9 of Chapter 40A of the Massachusetts General Laws, an application dated August 22, 2008 for an Open Space Residential Development (OSRD) special permit was filed by Broad Acres Management Trust with the Planning and Economic Development Board and the Town Clerk on August 22, 2008. The companion application for an Affordable Housing Special Permit was submitted on 9-23-08.

The public hearing was scheduled to begin on September 23, 2008, at which time comments would be received from the general public, municipal boards and/or departments and the Planning and Economic Development Board's consultants. Notices of the public hearing were published in the *Milford Daily News* on September 9 & 15, 2008. Notices were sent by certified mail to abutters and the Planning Boards of all adjacent towns on September 4, 2008.

On September 3, 2008, a transmittal memo from the Planning and Economic Development Board soliciting comments on the application was circulated with the application and plan to the Board of Selectmen, Board of Assessors, Board of Health, Building Inspector/Zoning Enforcement Officer, Conservation Commission, Department of Public Services, Design Review Committee, Disability Commission, Fire Department, Open Space Committee, Police Department, and Water/Sewer Department, and the Town's consulting planner. The memo noted that a public hearing was scheduled to begin on September 23, 2008 and requested comments by that date.

The Planning and Economic Development Board convened the public hearing in the Sanford Room of Town Hall on September 23, 2008, and continued it to October 28, December 9, January 13, January 27, February 10, February 13 and February 24, 2009 at which time the public hearing was closed. At the public hearing, comments were received from the general public, municipal boards and/or departments, PGC Associates (the Town's planning consultant), the applicant, and members of the applicant's development team. All persons in attendance were provided the opportunity to comment and present evidence. All members voting on this Special Permit were present at all sessions or have provided a certification pursuant to MULLINS RULE.

All matters of record were available for public review in the office of the Planning and Economic Development Board and the Town Clerk for all times relevant thereto.

EXHIBITS – PLANS and DOCUMENTS - The following exhibits were submitted for the Board's review and deliberations. The application package consisted of:

- an application and related materials for an OSRD and affordable housing special permits;
- a plan entitled "Williamsburg Condominiums – Special Permit Concept Plans - Open Space Residential Development (OSRD), dated August 20, 2008,

prepared by Faist Engineering of Southbridge, MA and O'Driscoll Land Surveying of Medway, MA.

- OSRD Project Narrative prepared by Paul Yorkis, Patriot Real Estate
- Development Impact Report dated August 22, 2008 prepared by Faist Engineering.
- Certified list of abutters within 300 feet of the site.
- Request for waivers from the *Subdivision Rules and Regulations*, dated 8-22-08.
- Proposed building elevations – Units A, B, C. No date or source specified.

Subsequent to the application package, the applicant submitted the following additional items.

- Revised “Williamsburg Condominiums – Special Permit Concept Plans - Open Space Residential Development (OSRD), dated August 20, 2008, prepared by Faist Engineering of Southbridge, MA and O'Driscoll Land Surveying of Medway, MA. – Revised September 15, 2008, October 14, 2008, November 24, 2008 and January 28, 2009.
- Letter from W. Phillips Barlow, To Design, LLC dated 9-22- 08.
- Letter from David Faist, Faist Engineering, dated 10-14-08 in response to the 9-23-08 comment letter from Medway Police Sergeant Jeffrey Watson and to discussion at the 9-23-08 public hearing.
- Schematic Planting Plan dated 12-17-08 by TO Design, Inc.
- Revised architectural elevations Units A-F, undated, source unspecified, received December 15, 2008
- Revised architectural elevations Units A-F, dated January 26, 2009, prepared by Michael Blanchette, architect.
- Letter dated January 13, 2009 from Paul Yorkis in response to the 1-8-09 review letter from the Medway Design Review Committee
- Revised request for waivers from the *Subdivision Rules and Regulations*, dated 2-20-09 and 2-12-09.

Other Information/Evidence

- Medway ZBA Comprehensive Permit Decision, June 16, 2005 for subject property
- West Haven Estates (40B Project) Site Plan Layout – Drawing C-1 by Faist Engineering, May 5, 2005
- MULLINS RULE certifications from Tom Gay for the 9-23-08 public hearing and from John Williams for 1-13-09 public hearing.

Review Letters

Gino Carlucci, PGC Associates (Medway Planning Consultant) – Review letters dated August 25, September 18, October 24, 2008 and January 8, 2009

Sgt. Jeffrey Watson, Medway Police Department – Review memo dated September 23, 2008

Medway Open Space Committee – Review letter dated October 29, 2008

Medway Design Review Committee - Review letter dated January 8, 2009

Fire Chief Paul Trufant – Review memo dated February 6, 2009.

DPS Director Dave D’Amico – Email memo dated 2-11-09 regarding sidewalk construction.

PUBLIC HEARING TESTIMONY

Professional Commentary

David Faist, Faist Engineering, Southbridge, MA

Gino Carlucci, PGC Associates, Franklin, MA

Applicant Comments

Greg and Mary Lou Whelan

Paul Yorkis, Patriot Real Estate

Citizen Comments

Jeff Swenson, 68 West Street

Rhea Berry, 68 West Street

Jim Wickis, 74 West Street

FINDINGS

To make its findings, decision and conditions of approval, the Planning and Economic Development Board carefully reviewed the proposed plan, as revised from time to time and last revised January 28, 2009 and all the materials, studies and documentation presented by the applicant, the Board’s consultants, letters from Town officials and boards, together with the comments and correspondence of abutters and members of the public, and carefully analyzed the general purpose of the OSRD and Affordable Housing provisions of the Zoning Bylaw and its specific requirements and standards, as well as the requirements of Section 9 of Chapter 40A of the Massachusetts General Laws specifically relating to Special Permits

A. As indicated above, based on the evidence and testimony presented at the public hearing sessions as documented in the Detailed Record of this Case, the Planning and Economic Development Board, on _____, made the following general FINDINGS regarding this application in accordance with Section V. Sub-Section T. Open Space Residential Development of the Zoning Bylaw:

1. Purpose and Intent – The Planning and Economic Development Board finds that the proposed Williamsburg Condominium OSRD meets the purpose and intent of Subsection T.1 of the Zoning Bylaw in that the development:
 - a. Uses flexibility and creativity in its design as a more compact development;
 - b. Protects community water supplies by protecting the riparian zone of Hopping Brook;
 - c. Minimizes disturbance on the site by limiting it to less than 38%.
 - d. Permanently preserves 8.65 acres of mostly sensitive lands;
 - e. Uses land more efficiently in its compact design;
 - f. Furthers the goals of the Medway Master Plan by and Open Space Plan by preserving open space along a waterway;
 - g. Facilitates construction and maintenance of housing, streets, utilities and public service by developing the site in a more compact style and providing private maintenance of roadways and infrastructure.
 - h. Preserves and enhances community character by preserving open space and diversifying the housing stock;
 - i. Does not protect agricultural land because none is present on or adjacent to the site;
 - j. Protects real property values by providing buffers to adjacent property;
 - k. Provides housing types (duplexes) that increase the diversity of the community's housing stock.
2. Site Eligibility – The site meets the eligibility requirements in that it is located in the AR-II district, consists of contiguous parcels, and is presented as a condominium development.
3. Permit Required – An application for a special permit for an OSRD was submitted by the applicant on August 22, 2008.
4. Pre-Application – The Planning and Economic Development Board finds that the requirements of Subsection T. 4 are met. An informal, pre-application meeting occurred at the July 22, 2008 Planning and Economic Development Board meeting.
5. Four-Step Design Process – The Planning and Economic Development Board finds that the applicant has fulfilled the requirement of Subsection T. 5 for a Registered Landscape Architect to follow the specified four-step design process to design the site. Landscape Architect W. Phillips Barlow of TO Design, LLC of New Britain, CT was retained to function as part of the applicant's development team. Mr. Barlow is registered landscape architect in the Commonwealth of Massachusetts. The four-step design process is documented in that a Registered Landscape Architect was part of the design team and a Site Context and Analysis Plan identified the sensitive natural resources on the site. House and road locations were then kept away from the resources. Step 4 was not necessary in this case because it is condominium development with no lot lines.

6. Procedures – The Planning and Economic Development Board finds that, subject to the Conditions noted below, the required application procedures in subsection T. 6 have been followed and the application documents required to be submitted have been provided including a Site Context and Analysis Plan, a Concept Plan and a Yield Plan. Also submitted was a Narrative Statement describing how the proposed OSRD meets the general purposes and evaluation criteria of the bylaw and why it is in the best interests of the Town to allow an OSRD rather than a conventional subdivision on this site. The plan was distributed to town boards/departments for review and comment. Additionally, the application was reviewed by the Town's planning consultant.
7. Maximum Number of Dwelling Units - Applying the Yield Plan formula as specified in Sub-Section T.7 to determine the maximum possible number of OSRD dwelling units for this site results in a maximum of 17 units. However, since three affordable units are being provided pursuant to SECTIN V. USE REGULATIONS, Sub-Section X. Affordable Housing, the applicant is entitled to three additional market rate units (to offset the affordable units) bringing the maximum possible number of dwelling units to 20. The applicant proposes to construct nine (9) duplex buildings for a total of eighteen (18) dwelling units on one (1) lot. The Planning and Economic Development Board finds that the construction of eighteen (18) dwelling units complies with this requirement and the configuration of the 9 duplex units is appropriate for the site since it minimizes disturbance and preserves views of and access to the open space areas.
8. Reduction of Dimensional Requirements – The Planning and Economic Development Board finds that the development meets the dimensional requirements as specified in Subsection T. 8 of the bylaw. Items (a) through (d) are not applicable to this project because no subdivision lots are created. The buildings are a minimum of 30 feet apart and landscaped buffers are provided between them. The proposed garages meet the requirement that no more than 50% of the garage doors shall face the street from which the unit is accessed. The requirement that garage doors that face the street shall be set back a minimum of 5 feet from the front façade of the principle building is met except for a maximum of two Type F one-story building styles. The Planning and Economic Development Board as conditioned below (Condition 10. c) hereby waives this requirement only for those specified units in order to increase the variety of housing types that may be offered within the development because the constraints of the site would not accommodate the Type F one-story units within the proposed site development configuration.
9. Open Space Requirements – Subject to conditions noted below, the Planning and Economic Development Board finds that the Williamsburg Condominiums complies with the **Open Space Requirements** as specified in Subsection T. 9. The minimum total open space required for this site is 6.93 acres which is 50% of the total site area of (13.86 acres). According to the plan by Faist Engineering, the applicant proposes to designate two parcels of 7.68 and .97

acres for a total of 8.65 acres as open space. The planned open space area constitutes 61.96% of the tract's total area.

- a) *The percentage of the minimum required open space that is a resource area as defined and regulated by the Medway General Wetlands Protection Bylaw shall not exceed the percentage of the total site that is a resource area; provided however, that the applicant may include a greater percentage of resource areas in any proposed open space beyond the minimum required.*

Of the entire 13.86 acre site, 3.19 acres (22.85%) is comprised of wetlands, flood plain and riverfront area. Therefore, no more than 22.85% (1.58 acres) of the minimum required open space of 6.93 acres can consist of these resource areas, leaving a requirement for 5.35 acres of uplands. The development includes 5.66 acres of uplands.

- b) *The open space shall be contiguous.*

The open space is contiguous across the site driveway.

- c) *The open space shall be used for wildlife habitat and conservation and the following additional purposes: historic preservation, education, outdoor education, recreation, parks, agriculture, horticulture, forestry, a combination of these uses, and shall be served by suitable access for such purposes.*

The open space is suitable for wildlife habitat, conservation, outdoor education and passive recreation.

The open space shall be accessible to the public. The Planning Board may require a minimum number of parking spaces to facilitate such public access.

Open Space Parcel B is accessible to the public and 4 parking spaces for public use are provided. Open Space Parcel A is available to the residents of the condominium development.

- d) *The Planning Board also encourages the use of open space to provide active and passive recreation in the form of commons, parks and playgrounds to serve the needs of the development and surrounding neighborhoods.*

Open Space Parcel A may include a small playground for use by the residents of the Williamsburg Condominium development.

- e) *Certain items shall not qualify toward the minimum open space area:*

None of the provided open space consists of any of the excluded areas of surface and subsurface stormwater management and wastewater

treatment facilities, utility easements, land within 15 feet of a dwelling unit, a community building or median strips or landscaped areas of parking lots.

f) *Ownership of Open Space*

The open space will be owned by the Town of Medway and/or the condominium association.

g) *The Planning Board shall make the final determination regarding the open space parcels. This shall include the location, size, shape and use of all proposed open space.*

The Planning and Economic Development Board approves the two open space parcels as depicted in the plans.

10. General Design Standards – Subject to the conditions noted below, the Planning and Economic Development Board finds that the Williamsburg Condominiums OSRD complies with the **General Design Standards** of Subsection T. 10 as follows:

a) *The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal. Any grade changes shall be in keeping with the general appearance of the neighboring developed areas. The orientation of individual building sites shall be such as to maintain maximum natural topography and cover. Topography, tree cover, and natural drainage ways should be treated as fixed determinants of road and lot configuration.*

The Planning and Economic Development Board finds that this standard is met.

b) *Streets shall be designed and located in such a manner as to maintain and preserve natural topography, significant landmarks, and trees; to minimize cut and fill; and to preserve and enhance views and vistas on or off the subject tract.*

The Planning and Economic Development Board finds that this standard is met.

c) *The development shall relate harmoniously to the terrain and the use, scale, and architecture of existing buildings in the vicinity that have functional or visual relationship to the proposed buildings. Proposed buildings shall relate to their surroundings in a positive manner.*

The Planning and Economic Development Board finds that this standard is met.

d) *All open space (landscaped and usable) shall be designed to add to the visual amenities of the area by maximizing its visibility for persons passing the site or overlooking it from nearby properties.*

The Planning and Economic Development Board finds that this standard is met.

- e) *The removal or disruption of historic, traditional or significant uses, structures, or architectural elements shall be minimized insofar as practicable, whether these exist on the site or on adjacent properties.*

Subject to the Condition # 8 a) below regarding relocating and rebuilding existing stone walls, the Planning and Economic Development Board finds that this standard is met.

- f) *Mix of Housing Types - The OSRD may consist of any combination of single-family, two-family and multifamily residential structures. A multifamily structure shall not contain more than 5 dwelling units.*

Since the development consists of 9 two-family/duplex buildings, the Planning and Economic Development Board finds that this standard is met.

- g) *Common/Shared Driveways - Common or shared driveways may be allowed at the discretion of the Planning Board.*

The Planning and Economic Development Board approves the use of shared private driveways for the dwelling units.

- h) *Each OSRD dwelling unit shall have reasonable access to the open space, but does not need to directly abut the open space.*

Since twelve of the proposed eighteen units have direct access to Open Space Parcel B. and the remaining six have easy access to it, the Planning and Economic Development Board finds that this standard is met.

- i) *A fifteen foot (15') wide visual buffer area consisting of natural vegetation, earthen materials and/or additional landscaping and/or fencing, acceptable to the Planning Board, shall be located along the perimeter of the OSRD tract, unless a reduction is otherwise authorized by the Planning Board. A determination to reduce the size of the buffer area shall be based on the proximity or lack thereof of abutting residences, the extent and screening effectiveness of any existing vegetation which may serve to buffer abutting properties, and/or the need to use the buffer area for access or utility easements.*

The 15' wide buffer is provided so the Planning and Economic Development Board finds that this standard is met.

B. As indicated above, based on the evidence and testimony presented at the public hearing sessions as documented in the Detailed Record of this Case, the Planning and Economic Development Board, on _____, made the following **FINDINGS** regarding this application in accordance with Section V. USE REGULATIONS, Sub-

Section X. Affordable Housing of the Medway Zoning Bylaw. Subject to the conditions noted below, the Planning and Economic Development Board finds that the Williamsburg Condominiums OSRD complies with the **Affordable Housing Requirements** of Sub-Section X. as follows:

1. The plan includes the construction of three (3) affordable dwelling units on the subject site. As the total number of dwelling units is 18, this meets the requirement that at least 15% of the dwelling units in a multiple unit residential development are affordable.

2. Siting of affordable housing units – Subject to the provisions of Condition # 6b below, the Planning and Economic Development Board finds that the affordable units are suitably sited within the development.

3. Minimum design and construction standards – Subject to the provisions of Condition # 6g below, the Planning and Economic Development Board finds that these standards are met.

4. One market rate bonus unit is authorized.

C. As indicated above, based on the evidence and testimony presented at the public hearing sessions as documented in the Detailed Record of this Case, the Planning and Economic Development Board, on _____, made the following additional **FINDINGS** regarding this application.

Other Pertinent Findings - ANYTHING ELSE WE SHOULD make findings on to link to any decision conditions?????????????

1. Construction of sidewalks along the West Street frontage is not practical due to _____.

DECISION/VOTE

After reviewing the application and all information gathered during the public hearing process, the Medway Planning and Economic Board, at a duly posted meeting on _____ voted _____ to _____ an Open Space Residential Development Special Permit and an Affordable Housing Special Permit to Broad Acres Management Trust and to _____ the Williamsburg Condominium OSRD Concept Plan prepared by Faist Engineering and O’Driscoll Land Surveying last revised _____ attached hereto as Exhibit A, to develop an 18 unit OSRD (9 duplex buildings) including 3 affordable dwelling units, subject to the CONDITIONS, LIMITATIONS and MITIGATION MEASURES listed below. This approval is transferable to successors in title of the subject property, or assignees.

This decision is based on the following factors as specified in SECTION V, Sub-Section T. 11. of the Medway Zoning Bylaw.

(a) The proposed OSRD achieves greater flexibility and creativity in the design of residential development than a conventional subdivision plan by siting the 9 two-family buildings (18 dwelling units) within a compact area allowing more than 60% of the site to be preserved as open space while also reducing construction and maintenance costs.

- (b) The OSRD as proposed results in the permanent preservation of 8.65 acres of open space (Open Space Parcels A and B) including wetlands, a tributary of Hopping Brook, upland meadows, wet meadows, a pine grove, a vernal pool and several stone walls.
- (c) The OSRD results in less sprawl and a more efficient form of development that consumes less open land and better conforms to existing topography and natural features than a conventional subdivision.
- (d) The OSRD disturbs only 5.21 acres (37.3%) of the 13.86 acre site.
- (e) The OSRD furthers the goals and policies of the Medway Open Space and Master Plan by preserving open space, protecting water resources, providing a diversity of housing types and providing 3 affordable housing units.
- (f) The OSRD facilitates the construction and maintenance of streets, utilities and public services in a more economical and efficient manner by minimizing the length of the street.
- (g) The OSRD Concept Plan and its supporting documentation comply with the Medway Zoning Bylaw.
- (h) The design of the buildings with the OSRD is consistent or compatible with traditional New England architectural styles as described in the Medway Design Review Guidelines, and as approved by the Design Review Committee.
- (i) The OSRD is compatible or in harmony with the character of adjacent residential neighborhoods in that the architectural style of the units is in keeping with New England character. Furthermore, and development is set back considerably from the street.
- (j) The OSRD will not have a detrimental impact on abutting properties and residential neighborhoods. The location of this development is on West Street, a thru street between Routes 109 and 126 and there are few directly abutting residences.
- (k) Any impacts of the OSRD on abutting properties and residential neighborhoods have been adequately mitigated with the 15 foot landscape buffer and the access roadway is skewed as far away as possible from the abutting residence at 68 West Street.
- (l) The OSRD protects and enhances community character by using New England architectural style and increasing the diversity of housing options in Medway.

Voting Planning and Economic Development Board Member **Grant/Not Grant**

Andy Rodenhiser
Cranston (Chan) Rogers
Karyl Spiller-Walsh
Thomas A. Gay
John W. Williams

CONDITIONS OF APPROVAL – The following conditions shall be binding upon the applicant and its assigns or successors. Failure to adhere to these conditions shall be cause for

the Planning and Economic Development Board to hold a public hearing in order to determine whether the Special Permit shall be revoked or whether the violation warrants any other action relative thereto. The Town of Medway may elect to enforce compliance with this Special Permit using any and all powers available to it under the law.

1. Notwithstanding any future amendment of the Medway Zoning Bylaw, MGL c. 40A, or any other legislative act:

a. The maximum number of dwelling units to be constructed under this Special Permit shall be eighteen (18). All three (3) affordable units shall have 3 bedrooms.

b. The tract(s) of land on which this OSRD is to be located shall not be altered or used except:

- 1) as granted by this Special Permit;
- 2) as shown on the Williamsburg Condominiums Special Permit Concept Plans OSRD, dated August 20, 2008, last revised January 29, 2009 to be modified and recorded as referenced herein; and
- 3) in accordance with subsequent approved plans or amendments to this Special Permit.

c. The entire tract of land and buildings to be constructed shall not be used, sold, transferred or leased except in conformity with this Special Permit.

2. **OSRD Concept Plan Modifications** – Before the Williamsburg Condominiums Concept Plans OSRD are endorsed by the Planning and Economic Development Board and recorded with this Special Permit at the Norfolk County Registry of Deeds, the plans dated August 20, 2008, last revised January 28, 2009 shall be further revised to incorporate the following items:

- a. Schematic Planting Plan dated 12-17-08 by TO Design, Inc.
- b. Revised architectural elevations by Michael Blanchette dated 1-28-09
- c. Light post selection
- d. The title page will list all plan sheets
- e. Revise the specification of the affordable housing units to indicate units #9, 11 and 17.
- f. A standard signature block shall be provided on each sheet.
- g. The Primary Development Parcel shall be labeled Parcel C.

3. **OSRD Definitive Plan**

a. This special permit and the approved Williamsburg Condominiums Special Permit Concept Plans - OSRD are subject to the submission and approval of a Williamsburg Condominiums OSRD Definitive Plan and compliance with all conditions of a Certificate of Planning and Economic Development Board Action approving the Williamsburg Condominiums OSRD Definitive Plan under the Medway Planning Board's *Rules and Regulations for the Review and Approval of Land Subdivisions* and the *Site Plan Rules and Regulations* in effect at the time of application.

b. No clearance or construction shall begin on site and no building permit shall be issued before the Planning and Economic Development Board has approved or

conditionally approved and endorsed the Williamsburg Condominiums OSRD Definitive Plan.

- c. The Williamsburg Condominiums OSRD Definitive Plan shall substantially comply with the approved Williamsburg Condominiums Special Permit Concept Plans - OSRD (as specified in SECTION V., Subsection T. 12. of the Zoning Bylaw).
- d. Notwithstanding any other requirements, the following items shall be incorporated on the plan set for the Williamsburg Condominiums OSRD Definitive Plan:
 - 1) General color palette and mix.
 - 2) Street name.
 - 3) The location and specifications for a playground on Open Space Parcel A or on the primary Development parcel (C)
 - 4) Detailed landscape plan including specific plans for landscaped buffer areas between the structures and elsewhere on the site, locations where stone walls will be disturbed and relocated or used. The plan will identify significant trees to be saved/retained and the locations for new street trees to be installed along the roadway.
 - 5) Detailed design for a landscape barrier to screen the 68 West Street between the access roadway and the house and behind the house.
 - 6) Materials specifications for the dwelling units.
 - 7) Maintenance plan for the both open space parcels including mowing, removal of underbrush.
 - 8) Bench location (in the northwest meadow) and design.
 - 9) Specifications that stone wall construction shall be consistent with the existing stone walls on site and shall be replicate a rustic, dry laid construction style.
 - 10) There is a prominent stone wall on the southern border of the property. If possible, a corresponding stone wall should be installed on the opposite side of the roadway using old stone to duplicate the general style of the existing stone wall. If sufficient stone exists, the same approach should be used at the entrance roadway as well.
- e. The Williamsburg Condominium OSRD Definitive Plan decision will include provisions for performance guarantees, construction inspection, construction phasing, project completion requirements including as-built plans and engineering certification.
- f.. The landscape plan, architectural elevations, and any designs submitted to the Planning and Economic Development Board as part of the OSRD Definitive Plan

process shall be reviewed by the Design Review Committee for its recommendations and shall be prepared to the satisfaction of the Planning and Economic Development Board and subject to its approval.

4. Open Space

- a. The Williamsburg Condominiums Homeowners Association shall be responsible for the ongoing maintenance and upkeep of Open Space Parcels A and B including the annual mowing or haying of the upland meadow and the annual mowing/packing of a pathway on Parcel B.
- b. Open Space Parcel A shall remain as open space managed by the Williamsburg Condominiums Trust for the use of residents of the development.
- c. Open Space Parcel B shall remain as permanent open space accessible to the general public. Open Space Parcel B shall be offered to the Town of Medway through its Conservation Commission or to a not-for-profit land preservation organization. If not accepted by either, the open space shall be conveyed to the Williamsburg Condominiums Trust and protected to the satisfaction of the Planning and Economic Development Board through a Conservation Restriction granted to the Town of Medway, acting through its Conservation Commission, in perpetuity and exclusively for conservation purposes pursuant to Sections 31, 32 and 33 of Chapter 184 of Massachusetts General Laws.
- d. The applicant shall provide a pathway/trail on Open Space Parcel B connecting the designated Open Space parking area to the center of the northwest meadow where a bench shall be provided for viewing/resting.
- e. A mini playground for use by residents of the development shall be provided on Parcel A or Parcel C (the primary development parcel).
- f. Prior to the issuance of an occupancy permit for the first dwelling unit, the applicant or its successor or assigns shall execute a Conservation Restriction for Parcel B, to be approved by the Planning and Economic Development Board's legal counsel and the Secretary of the Executive Office of Environmental Affairs. The Conservation Restriction shall include provisions allowing for the future construction of trails subject to appropriate approvals.

5. Stormwater Drainage System - The planned stormwater management system for the Williamsburg Condominium development shall comply with the current Massachusetts DEP Stormwater policy. The stormwater drainage system shall be designed to include appropriate Low Impact Development (LID) best management practice techniques including the use of rain gardens; roof runoff collectors and other suitable techniques to minimize the project's impact on resource areas, reduce stormwater discharge to the street, and maximize the recharge of stormwater into the ground, subject to the following limitations/conditions:

- a. substantial landscape screening shall be provided at any locations where rip rap is used.
- b. any detention basin shall be designed to be integrated into the site's topography and natural features such that the contours are softened and a naturalized appearance is achieved.

6. Affordable Housing

- a. Three (3) dwelling units within the Williamsburg Condominiums will be affordable housing units that will comply with the requirements for inclusion on the Subsidized Housing Inventory established by the Massachusetts Department of Housing and Community Development.
- b. Affordable dwelling units are hereby designated as units # 9, 11 and 17. The Affordable units shall have 3 bedrooms.
- c. As part of the Definitive Plan process, the applicant shall prepare an Affordable Housing Regulatory Agreement to be executed by the Town of Medway, the Massachusetts Department of Housing and Community Development and Broad Acres Management Trust, or its successors/assigns and recorded at the Norfolk County Registry of Deeds. The affordable units are subject to the Regulatory Agreement and shall be sold and resold in accordance with the provisions of the Regulatory Agreement.
- d. As part of the Definitive Plan process, the applicant shall prepare a marketing plan for the selection of qualified purchasers for Planning and Economic Development Board approval. The marketing plan shall be prepared after consultation with the Medway Affordable Housing Committee and shall comply with the requirements of the Medway Zoning Bylaw, SECTION V. USE REGULATIONS, Sub-Section X. Affordable Housing, 10. 3.
- e. A long term Affordable Housing Deed Rider/Restriction, as specified in Medway Zoning Bylaw, SECTION V. USE REGULATIONS, Sub-Section X. Affordable Housing and in a form acceptable to the Town, shall be recorded with the deeds for the affordable units.
- f. The Williamsburg Condominium Master Deed and all legal documents related to the affordable units shall include language to specify:
 - 1) the unit numbers of the designated affordable units
 - 2) that the affordable units shall be sold to income eligible persons or households
 - 3) that the local preference criteria for the sale and re-sale of the affordable units shall be in accordance with the Massachusetts Department of Housing and Community Development Local Initiative Program or other applicable state housing program that provides units that are eligible for inclusion in the Subsidized Housing Inventory
- g. *Minimum design and construction standards for affordable housing units* – The affordable housing units shall:
 - 1) be integrated with the rest of the development and the exterior shall be of compatible design, appearance, character, construction and quality of materials with the market rate units;
 - 2) be designed so as to not be obviously identifiable by a visitor as being affordable by their exterior appearance;

- 3) comply in all respects to the minimum design and constructions standards set forth in the Local Initiative Guidelines by DHCD, July 1996, or as amended pertaining to the interior features of affordable dwelling units; and
 - 4) have a minimum size of 1,500 square feet and three (3) bedrooms excluding basement space.
 - h. The owners and tenants of affordable housing units shall have the same rights and privileges to access any amenities available within the development as the owners and tenants of market rate dwelling units.
 - i. All other provisions of Medway Zoning Bylaw, SECTION V. USE REGULATIONS, Sub- Section X. Affordable Housing shall apply.
7. **Water Conservation** – As part of the OSRD Definitive Plan application, the applicant shall propose specific water conservation measures that will be employed in the design of the residential dwellings, appliance selection, site landscaping, etc. in an effort to keep residential water use below 65 gallons per capita per day in accordance with DEP policy and the Town of Medway’s water withdrawal permit.

8. **Preservation of Site Features**

- a. Stone Walls
 - 1) The applicant, its successors or assigns, and the contractor shall make the maximum effort to retain the site’s existing stone walls. Where a road or path must disturb a stone wall, the applicant shall rebuild the wall in the same style and/or use the removed stone elsewhere on the site.
 - 2) There is a prominent stone wall on the southern border of the property which should be preserved and repaired or enhanced where needed with stone from the stone walls that have to be removed elsewhere on site. If possible, a corresponding stone wall should be installed on the opposite side of the roadway using old stone to duplicate the general style of the existing stone wall. If sufficient stone exists, the same approach should be used at the entrance roadway as well.
 - 3) Wall construction or reconstruction shall be completed in a highly rustic, dry laid, unfinished fashion.
- b. The Upland Meadow shall be retained and shall be mowed at least once a year.

9. **Sidewalk Construction**

- a. The construction standards of the *Subdivision Rules and Regulations* require the installation of sidewalks along a property’s frontage of existing public ways. For this site, the frontage along West Street is approximately 350 linear feet. The Planning and Economic Development Board has found that sidewalk construction along approximately 350 linear feet of West Street is not practical. Accordingly, in lieu of such sidewalk construction, the applicant shall either make a payment to the Medway Sidewalk Improvement Fund or

construct/reconstruct approximately 350 linear feet of sidewalk at an off-site location to the satisfaction of the Medway Department of Public Services (DPS) as follows:

- 1). Improvements to be made in accordance with DPS standards.
- 2) Before construction, exact locations, sidewalk plan and street opening permit to be subject to approval by the DPS Director.
- 3) Construction inspection by the Town's consulting engineer or the Department of Public Services is required.
- 4) If necessary, trees may be removed and replacement plantings shall be installed in accordance with DPS requirements.

Work to be completed prior to the issuance of an occupancy permit for the first dwelling unit.

- b. Interior sidewalks shall be designed as a continuous plane across the driveway opening with the driveways meeting the grades of the sidewalks rather than the sidewalks simply ending at each driveway break.

10. Architecture

- a. The duplexes may be constructed such that different unit types may be combined in one building.
- b. The development, when completed, will include all 6 unit types.
- c. In Type F units with 2 garages, at least one garage shall not face the street.

11. Parking

- a. As there is very limited room for on-street parking, each unit shall provide at least 4 off street parking spaces.

12. Condominium Management

- a. A Williamsburg Condominium Homeowners Association shall be established and be responsible for the upkeep and maintenance of the roadway, drainage system and open space areas.
- b. Prior to the issuance of an occupancy permit for any unit in the development, the following documents shall be recorded at the Norfolk County Registry of Deeds.
 - 1) Williamsburg Condominiums Master Deed including Bylaws, Rules & Regulations, and the Stormwater Operation and Maintenance and Management Plan
 - 2) Declaration of Trust of the Williamsburg Condominium organization
 - 3) Open Space/Conservation Restriction applicable to Parcel B.

13. Ownership/Maintenance of Common Areas

- a. All roads, drainage facilities and Open Space Parcel A shall be owned and maintained by the Williamsburg Condominium Trust. It is the intent of the Planning and Economic Development Board that the roadway system and drainage facilities will not be accepted by the Town of Medway.
- b. The Planning and Economic Development Board requires that the following aspects of the development shall be and shall remain forever private, and that the Town of Medway shall not have, now or ever, any legal responsibility for the operation and maintenance of the following:
 - 1) roadways and parking areas
 - 2) stormwater management system
 - 3) snowplowing/sanding and other road maintenance and repairs
 - 4) landscaping
 - 5) trash removal
 - 6) street lighting
 - 7) Open Space Parcel A

Such services shall be the responsibility of the Williamsburg Condominiums Trust.

14. **ANR Plan** – Prior to any endorsement of the Definitive OSRD plan, an ANR plan shall be filed for Planning Board endorsement. The ANR plan shall divide the site into 3 parcels – Open Space Parcels A and B, and the development parcel in general conformance to the OSRD Concept Plan.
15. **Fire Protection** – In lieu of installing a fire alarm system within the development, the Planning and Economic Development Board requires a sum of money be paid to the Town equal to the cost of such installation for use by the Fire Department for future capital expense to upgrade the town's fire alarm system. A fee of \$1,000.00 per fire alarm box has been established by the Fire Department for this purpose. The Williamsburg Condominiums plan calls for over approximately 1,134 linear feet of roadway. Therefore, a fee of \$ 1,000 shall be paid to the Town of Medway for the Fire Alarm Special Capital Account prior to the issuance of the first occupancy permit.
16. **Signage** – The Williamsburg Condominium development will not include any development identification signage except for standard private way street signs.
17. **Restriction on Construction Activities** - During construction, all local, state and federal laws shall be followed regarding noise, vibration, dust and blocking of town roads. The applicant and its contractors shall at all times use all reasonable means to minimize inconvenience to abutters and residents in the general area. The following restrictions on construction activity shall apply:
 - a. Construction shall not commence any day before 7 am and shall not continue beyond 6:00 p.m.
 - b. There shall be no construction on any Sunday or legal holiday without the advance approval of the Board of Selectmen.
 - c. Blasting, if necessary, shall be limited to the hours between 9:00 am and 5:00 pm Monday through Friday.

18. **Payment of Balance of Fees/Taxes** - Prior to Planning and Economic Development Board signature on this special permit, the Applicant shall pay the balance of any outstanding plan review services provided by any outside consultants retained by the Planning and Economic Development Board who assisted in the review of this project and any other outstanding expenses, obligations or fees due the Town of Medway pertaining to these properties. The Applicant shall also provide proof from the Medway Town Treasurer/ Collector that all real estate taxes and any penalties and back charges resulting from the non-payment of taxes for all property included in this development are paid in full.
19. **Recording of Plans and Documents** - The following documents shall be recorded at the Norfolk County Registry of Deeds before the Williamsburg Condominium OSRD Definitive Plan and application are filed with the Town of Medway.
 - a. Williamsburg Condominium OSRD and Affordable Housing Special Permit Decision
 - b. Williamsburg Condominium Concept Plans OSRD last dated January 28, 2009 to be revised as specified herein.
20. **Modifications** – No modification shall be made to the Williamsburg Condominiums OSRD Definitive Plan and development without modification of this Special Permit or as set forth herein. The approval of the Planning and Economic Development Board under then applicable zoning bylaw requirements shall be required for any modification of the record plans, whether substantial or insubstantial. The Planning and Economic Development Board reserves its right and power to modify or amend the record plans and the terms and conditions of this Special Permit upon request of the Applicant, his designees or assigns. It shall be within the Planning and Economic Development Board's sole discretion to determine whether any proposed modification is substantial or insubstantial and what constitutes such. Substantial modifications shall be subject to the same review standards and procedures applicable to the original application for this Special Permit. The Planning and Economic Development Board may authorize insubstantial modifications without a public hearing. If the Applicant petitions for amendments to the Definitive OSRD Plan or this Special Permit, the applicant must submit all plans and information to the change as required by the applicable *Rules and Regulations* in effect at that time.
21. **Project Completion**
 - a. This special permit shall lapse if substantial use thereof has not commenced within two years of the filing of this decision with the Town clerk, except for good cause, in the event of an appeal, or if construction is not continued through to completion as continuously and expeditiously as is reasonable. For substantial use to have commenced, construction of the entire length of the private roadway must be underway or completed. For construction to continue toward completion as continuously and expeditiously as is reasonable, construction activity shall not rest for more than one year or in the case of a permit for construction, if construction has not begun except for good cause.
 - b. The applicant, its successors or assigns, shall construct the roadway and all related infrastructure including the stormwater management system, and install all utilities as shown on the OSRD Concept Plan, to the satisfaction of the Planning and Economic Development Board, within five years of the date this

decision is filed with the Town Clerk. A request to extend the completion time limit must be made in writing to the Planning and Economic Development Board at least thirty days prior to said expiration date. The Board reserves its right and power to grant or deny such extension, to issue any appropriate changes to the special permit and to require any appropriate modifications to the OSRD Definitive Plan.

LIMITATIONS – Other approvals or permits required by the Medway Zoning Bylaw, Medway General Bylaws, or other governmental boards, agencies or bodies have in jurisdiction shall not be assumed or implied by this Special Permit Decision.

MITIGATION MEASURES

WAIVERS TO SUBDIVISION RULES AND REGULATIONS – During the course of the public hearing on the OSRD Special Permit, the applicant made known his intent to request waivers from the following sections of the *Subdivision Rules and Regulations* during the subsequent Williamsburg Condominium OSRD Definitive Plan phase of approval. These waivers include the following:

Section 5.7.19 *Proposed Layout of Electric, Telecomm, Gas, & Cable TV Utility Lines is to be shown on the definitive plan.*

Explanation –The applicant requests a waiver from this regulation as it is not possible to show these locations on the definitive plan. NSTAR is the utility in the Town of Medway that prepares the initial design for underground utilities for electric, phone, and cable service; Verizon and Comcast follow the NSTAR design. NSTAR does not begin the design process until it receives three (3) copies of the endorsed plans. The underground utility services will be shown on the as-built plans.

***Section 6.6.3** *Partial Bond Release – The Board shall not grant a partial release from such security for the partial completion of improvements until certain items are installed, inspected and approved by the Board or its agent.*

Explanation – Applicant requests a waiver from this regulation as Williamsburg Way will be a Private Roadway when constructed.

Section 6.8.1 *Street Acceptance: Legal Description, Deeds, & Easements*

Explanation – Applicant requests a waiver from this regulation as Williamsburg Way will be a Private Roadway when constructed and therefore these items are not needed.

Section 6.8.2 *Street Acceptance/Infrastructure Acceptance Fee*

Explanation – Applicant requests a waiver from this regulation. As Williamsburg Way will be a Private Roadway when constructed, the Town will not be accepting the road as a public way

and therefore, the requirement for a street acceptance fee does not apply to this development. Therefore, no fee is needed.

Section 6.8.3 *Street Acceptance Plan*

Explanation – The Applicant requests a waiver from this regulation. As Williamsburg Way will be a Private Roadway when constructed and the Town will not be accepting this roadway as a public way, the requirement for a street acceptance plan does not apply to this development. Therefore, a street acceptance plan is not needed.

Section 6.8.4 *Pre-Acceptance Inspection & Review by Other Town Boards*

Explanation – The Applicant requests a waiver from this regulation. As Williamsburg Way will be a Private Roadway when constructed and the Town will not be accepting this roadway as a public way, this requirement does not apply to this development. Therefore, the various town boards and departments do not need to conduct such inspections.

Section 6.8.6 *Street Acceptance - Planning Board Recommendation*

Explanation – The applicant requests a waiver from this regulation. As Williamsburg Way will be a Private Roadway when constructed and the Town will not be accepting this roadway as a public way, this requirement does not apply to this development. Therefore, the Planning Board does not need to make any recommendation regarding street acceptance.

Section 6.8.7 *Street Acceptance Town/Meeting Warrant*

Explanation – The applicant requests a waiver from this regulation. As Williamsburg Way will be a Private Roadway when constructed and the Town will not be accepting this roadway as a public way, this requirement does not apply to this development. Therefore, this matter does not need to be included on a warrant for town meeting consideration.

Section 6.8.8 *Street Acceptance/Board of Selectman Establish Roadway Layout*

Explanation – The applicant requests a waiver from this regulation. As Williamsburg Way will be a Private Roadway when constructed and the Town will not be accepting this roadway as a public way, this requirement does not apply to this development. Therefore, the Board of Selectmen does not need to approve a roadway layout.

Section 6.8.9 *Approval of Street Acceptance Plans*

Explanation – The applicant requests a waiver from this regulation. As Williamsburg Way will be a Private Roadway when constructed and the Town will not be accepting this roadway as a public way, this requirement does not apply to this development. Therefore no action to approve a street acceptance plan is needed.

Section 6.8.10 *Street Acceptance/Town Meeting Acceptance*

Explanation – The applicant requests a waiver from this regulation. As Williamsburg Way will be a Private Roadway when constructed and the Town will not be accepting this roadway as a public way, this requirement does not apply to this development. Therefore no action is required at a Town Meeting.

Section 6.8.11 *Street Acceptance/Recording of Street Acceptance Plan*

Explanation – The applicant requests a waiver from this regulation. As Williamsburg Way will be a Private Roadway when constructed and the Town will not be accepting this roadway as a public way, this requirement does not apply to this development. As no action will be taken by the Board of Selectmen, Planning Board, or Town Meeting, no recording is necessary.

Section 7.9.1.e *Use of Local Street construction standards for subdivisions of six and more lots/dwelling units.*

Explanation - The Applicant requests a waiver from this regulation. Although the roadway will serve eighteen dwelling units, the roadway will be private and will not conform to all of the construction standards for a *Local Street*. MORE EXPLANATION NEEDED – What standards are proposed??

Section 7.9.4 *The minimum right of way width of any permanent private way, neighborhood, minor or secondary street will be fifty feet.*

Explanation – A waiver from this regulation will be needed. The roadway will be private; the applicant plans for an eighteen foot right of way to allow for some minimal future expansion of the paved area.

Section 7.9.7.g *Minimum Paved Roadway Width - 26' for a Local Street & 18' for a Private Way*

Explanation – The applicant requests a waiver from this regulation. Williamsburg Way is planned to be a one-way, Private Roadway with a pavement width of fourteen feet at the entrance increasing to sixteen foot width for the remainder. The roadway layout will be eighteen feet allowing for future expansion of the pavement from sixteen to eighteen feet.

Section 7.10.2 *Curbs/Berms - Sloped Granite Edging (Type S-B) for a Local Street*

Explanation - Williamsburg Way is proposed to utilize a “country drainage” low impact design using roadside grass swales to guide stormwater flow. Curbing is not proposed along all of the edges of the Private Roadway. Where necessary for drainage purposes, cape cod or bituminous style curbing will be used.

Section 7.13.3 *Sidewalks shall be provided along the entire frontage of the subdivision parcel along existing Town ways*

Explanation – The applicant requests a waiver from this regulation. The reason that no sidewalk is proposed along the property’s approximately 350’ West Street frontage is because the sidewalk would have to be located within the twenty-five (25’) no disturb portion of the buffer zone regulated by the Conservation Commission under the Town of Medway Wetlands By-Law and it would be immediately adjacent to the Certified Vernal Pool for a distance greater than 150’ (including the twenty-five (25’) foot buffer zone). Neither would be allowed by the Conservation Commission. In addition, there are no existing sidewalks along either side of West Street in the vicinity of this project.

Section 7.19.2 *Street Trees shall be planted on each side of the street.*

Explanation - The applicant requests a waiver from this regulation. The applicant, in compliance with the OSRD bylaw, will prepare and submit a landscape plan for the entire project during the OSRD Definitive Plan phase.

Formal action on requests for waivers from the *Subdivision Rules and Regulations* will be addressed once the applicant applies for and the Planning and Economic Development Board acts on the Williamsburg Condominiums OSRD Definitive Plan. During the course of that review, other waivers may be identified. In acting on any waiver request, the Planning and Economic Development Board may impose conditions, safeguards and limitations in the best interest of the Town of Medway. Based on the information presently available, the waiver requests have merit and appear to be reasonable for this particular site.

APPEAL - Appeals, if any, shall be pursuant to Section 17 of Chapter 40A of the Massachusetts General Laws, as amended, and shall be filed within twenty (20) days after the date of filing of this notice in the Office of the Town Clerk. A copy of this decision has been filed with the Town Clerk.

After the appeals period has expired, the applicant must obtain certified notice from the Town Clerk that no appeals have been made. Said notice must be filed at the Registry of Deeds with this special permit and the accompanying Williamsburg Condominiums Concept Plan OSRD. A copy of said recording must be returned to the Town Clerk and the Planning and Economic Development Board to complete the file.

MEDWAY PLANNING & ECONOMIC DEVELOPMENT BOARD

Date Signed: _____

Andy Rodenhiser

Cranston (Chan) Rogers

Karyl Spiller-Walsh

Thomas A. Gay

John W. Williams

I hereby certify that 20 days have elapsed from the date of this decision and that no appeal has been filed in this office.

A True Copy Attest: _____
Maryjane White, Town Clerk _____
Date

cc: Planning Boards of Bellingham, Franklin, Holliston, Millis, Milford, and Norfolk
Board of Assessors
Building Commissioner/Zoning Enforcement Officer
Board of Health
Board of Water/Sewer Commissioners
Department of Public Services
Design Review Committee
Fire Chief
Open Space Committee
Police Safety Officer
Town Administrator/Board of Selectmen
Town Counsel
Zoning Board of Appeals
Greg Whelan, Broad Acres Management
Paul Yorkis, Patriot Real Estate
David Faist, Faist Engineering

ADULT USES

2/20/09 draft

ARTICLE To see if the Town of Medway will vote to amend the Medway Zoning Bylaw by:

1. Deleting SECTION V. USE REGULATIONS, Sub-Section G.2 (h);
2. Deleting SECTION V. USE REGULATIONS, Sub-Section I.3 (h);
3. Deleting SECTION V. USE REGULATIONS, Sub-Section J.3 (h); and
4. Adding a new item (i) to SECTION V. USE REGULATIONS, Sub-Section M.1 (2?????)as follows:

(i) “Adult Uses”, as defined herein, except as otherwise restricted, will be subject to the following dispersal, separation and design standards established to preserve the public good, public safety and neighborhood objectives and protect against the documented secondary effects of such uses:

1. 500 ft. in any direction from other establishments of such “Adult Uses,” as measured along the shortest line between any buildings housing such an adult establishment;
2. 250 ft. in any direction from residential zoned land, as measured along the shortest line between the residential zoning district boundary and any buildings housing such an adult establishment. A solid fence and 50-foot heavily vegetated buffer appropriate to the character of the area shall be provided along any residential zoning district.
3. 500 ft. in any direction from a residence, school, place of worship, day care center, or playground, as measured along the shortest line between these buildings or structures and any building housing such an adult establishment. A 50-foot heavily vegetated buffer appropriate to the character of the area shall be provided along any residential zoning district.
4. An adult establishment may be located a minimum of 200 ft. away from residential zoned land and 250 ft. away from a residence, school, place of worship, day care center or playground provided that a 100-foot heavily vegetated buffer and solid fence along the property line with any such use is provided and maintained.
5. No adult use shall be allowed to display for advertisement or other purpose any signs, placards or other like materials to the general public on the exterior of the building or on the interior where the same may be seen through glass or other like transparent material any sexually explicit figures or words as defined in G. L. c. 272;
6. Building designs shall be consistent in architectural style and color with other buildings in the Industrial I district;
7. Windows shall be screened to prevent public view of the interior of the premises from any public or private right-of-way or abutting property; and
8. Adult uses shall not be allowed within a building containing other uses.

Or to act in any manner relating thereto.

PLANNING AND ECONOMIC DEVELOPMENT BOARD

